FOR MYSORE STATE

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P 6E

Finance (1948) Department.

Fs SERIES.

G.O. NO. 650

Dated 31-8-1948

[Despatch Abstract.]

Fundamental rules - Service on deputation counting for increments - Amendment to F.P. 26 not considered necessary.

GOVERNMENT OF MADRAS.

Abstract.

Mahabub Mian Sahib, Khan Sahib S. - Deputy Collector - Period of deputation as Personal Assistant to the Collector, C & M Station, Bangalore - counting for increment - Fundamental Rule 26 (6) - Relaxed.

REVENUE DEPARTMENT.

G.O.No.Ms.886. Dated 19.4.1948.

Read:-

From the Board of Revenue Ref.D.1647/48-1, dated the 3rd March 1948.

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Order:

In exercise of the powers conferred by Section 241 (5) of the Government of India Act, 1935, His Excellency the Governor of Madras relaxes Fundamental Rule 26 (b) in favour of Khan Sahib S. Mahabub Mian Sahib Bahadur, Deputy Collector, and permits him to count for increment in the time scale of pay applicable to Deputy Collectors, the period from 17.4.1942 to 2.1.1943 during which he has worked as personal Assistant to the Collector C & M Station, Bangalore.

2. Separate orders will be issued from the Finance Department on para 2 of the Board's reference read above.

(By Order of His Excellency the Governor).

G.Venkateswara Ayyar.
Secretary to Government.

To
The Board of Revenue.
The Madras Public Service Commission.
The Accountant General.
The Finance Department (with a co py of Board's reference and Finance notes). Para 1 only.
To Khan Sahib Mahabub Mian Sahib Bahadur, Deputy Collector through the Board of Revenue.

/True Copy/

Kp.11.5.

Superintendent.

Copy of Board's Reference D.1647/48-1, dated the 3rd March 1948.

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MAHABUB MIAN SAHIB, KHAN SAHIB S. - Deputy Collector - Period of deputation from 17.4.1942 to 2.1.1943 as Personal Assistant to the Collector C & M Station, Bangalore - Counting for increment.

From Khan Sahib S.Mahabub Mian letter dated the 5th January,1948

REFERENCE:

1.Submitted to the Government. The Board recommends that Khan Sahib S.Mahabub Mian Sahib may be permitted to count for increment the period of his deputation as Personal Assistant to the Collector, C & M Station, Bangalore from 17.4.1942 to 2.1.1943 with time scale applicable to Deputy Collectors. The case is similar to the one dealt with in G.O.1929 Revenue, dated 25-10-1945 and G.O. No.3058 Revenue, dated 18.9.1947.

The Board observes that rule 26 (b) of the Fundamental Rules has been held by the Accountant General in more than one case to operate adversely so as to prevent the counting of periods of service on deputation for increments in a time scale of an officiating post. It is doubt-ful whether rule 26 (b), which appears to be more an enabling provision instead of a prohibitory one, was intended to prevent the counting of service on deputation for increments in officiating posts. Under the principle of the "next below rule" an officer would be entitled to claim an increment which he would otherwise have got had it not been for his deputation. The Board considers therefore that rule 26 (b) should be suitably amended so as to cover cases of this kind.

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Copy of letter dated the 5th January 1948 from Khan Sahib S.Mahabub Mian Sahib Bahadur, B. A., the Revenue ~~Madras~~ Divisional Officer Madanapalle, through the Collector Chittoor.

To Board of Revenue Madras.

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PUBLIC SERVICES - Provincial Services - Madras Civil Services (Executive Branch) - Khan Sahib S.Mahabub Mian - Deputy Collector Madanapalle - Fixation of pay.

Madras Accountant General's letter Gl.Rev.(ii)811/ 7.10.1947.

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On my reversion from the post of the Personal Assistant to the Collector, Civil Military Station, Bangalore, to my present post in the regular line as Revenue Divisional Officer, Madanapalle, Accountant General of Madras has, in his letter cited above (copy enclosed), refixed my pay at Rs.450/- with effect from 31-7-1947. instead of 15-11-1946. In doing so, he has discounted for the purpose of increments, the period of my officiating service on deputation at Bangalore from 17-4-42 to 2-1-1943. This, I submit is unfair and unreasonable; and involves a great hardship to me as it postpones all my future increments permanently and affects my pension in due course.

2. In G.O.Ms.No.1260 Revenue, dated 2-6-1941, communicated with B.P.Rout No.2773 (Confidential) dated 10-6-1941, I was declared to have completed my probation in the Madras Civil Service (Executive Branch) satisfactorily on the forenoon of 16-4-1941. Accordingly, in Accountant General's No.G.A.Rev.522 dated 24-6-1941, my pay was raised from Rs.265/- to Rs.300/- with effect from 15-11-1940 I was confirmed as Deputy Collector in G.O.No.Ms.152 Dated 9-2-1943 with effect from 3-1-1943.

P.T.O.

3. On a call from the Board of Revenue (please see Board's D.O.(Confidential) 1230/42-2 dated 16-3-1942) I agreed to go on deputation as First Class Magistrate, Civil and Military Station, Bangalore and in G.O.No.Msc.873 Revenue, dated 7-4-1942 communicated with Board's Ref.D1.1230/42-4 dated 9-4-42, my services were placed at the disposal of the Honourable the Resident in Mysore, Bangalore. I took charge at Bangalore on 25-4-1942 and worked there till 1-6-1947, when I went on leave and asked for reversion.

4. After I went to Bangalore, my increments were sanctioned regularly with effect from 15-11-1942, 15-11-1944, and 15-11-1946 from which date my basic pay was fixed at Rs.~~8~~ 450/- . All along, I had my lien in the Madras Civil Service (Executive Branch), and had it not been for my deputation to the Civil and Military Station, Bangalore, I would have been continued as Deputy Collector in the regular line. The rule quoted by the Accountant General does not apply to my case. Even otherwise, I should not be made to suffer for no fault of mine. I therefore request that you may be pleased to take necessary steps to direct the Accountant General to have my pay fixed at Rs.450/- with effect from 15.11.1946 as was originally done by him.

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Extract of notes from C.No.15636 B/48.

Finance (C.S.R) Department.

T The draft order overleaf may be accpted.

2. As regards para 2 of the draft order, necessary action will be taken in this department on receipt of copy of the order with copy of the Board's reference. (Necessary addition made in the address entry to the draft order).

/True Extract/

By order.

KP.11.5. Sd.Superintendent.

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Accountant General Office,
Madras.

This office does not consider that the proposed amendment to F.R. 26 (c) is necessary for the following reasons.

Even if the amendment is made there will be certain number of cases which it will not cover. For example if a Government servant officiating in a post is in the interest of the public service appointed to officiate in a lower post- although such instances may be few - then the service in the latter should be allowed to count for increment in the former post. Again, it may sometimes happen that a Government servant officiating in a lower post may have to be retained in that post in the public interest even when his turn for promotion to a higher post arises. Government may have to issue special order to count the period for increment in the higher post. Further, the definition of posts 'not lower in status' will not be clear in a large majority of non-gazetted posts and is thus liable to be misapplied or abused by the sanctioning authorities. It will not be possible for audit to detect such defects as in such cases audit will be content with the certificates furnished by the sanctioning authorities. For the reasons stated above it seems that it is more advantageous that the competent authorities should review each case on its merits and when it arises rather than that a general rule of the kind should be issued particularly in view of the fact that cases of this kind are not bound to be many. It is therefore suggested that the existing procedure may be allowed to continue. It may be pointed out in this connection that the Government of India have not felt it necessary to amend Fundamental Rule 26 (c) on similar lines.

Sd.T.K.Anantha Raman,
Assistant Accountant General

M.G. ------3 U.O.
A.G. Madras U.O.No.G.A.Genl. 18-10/152/48-49, dated 23.8.1948.

Finance (C.S.R.)

In the circumstances explained by the Accountant General above, it is for orders whether the proposal of the Board of Revenue may be dropped. If approved the papers may be Recorded for facility of reference and the Board informed that Government do not consider it necessary to amend F.R.26.

Issued Memo. 80265 - C.S.R - 1 dated (31-8-48).

(G.O.NO.850 dated 31.8.48.)

/True Copy/

KP.11.5.

Supdt.
Madras Record Office.

Finance (CSR).

Memorandum.No.80265.C.S.R.-1. Dated 31.8.1948.

Fundamental Rules - Service on deputation counting for increments - Amendment to F.R.26 not considered necessary.

Ref:From the Board of Revenue, No.D.1647/48-1 dated 3-3-48.

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The Suggestion of the Board of Revenue that F.R. 26 (b) should be suitably amended, so as to count periods of service on deputation for increments in a time scale of an officiating post was considered by the Government in consultation with the Accountant General, Madras. The Accountant General Madras considers that it is not necessary to amend F. R.26 as it is more advantageous that the competent authorities review each case on its merits as and when it arises rather than that a general rule of the kind is issued, particularly in view of the fact that cases of the kind are not likely to be many. Moreover the Government of India have not felt it necessary to amend the rule. The Government agree with the view of the Accountant General and consider that no amendment to F.R.26 is necessary.

To
The Board of Revenue.
Copy to A.G.Madras.

/True Copy/

KP.11.5.

Supdt.
Madras Record Office.

Note file

Finance (C.S.R.)

F.Rs. - Services counting for increments - F.R 26 (b) - Amendment.

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Please see the reference from the Board of Revenue on p.1 and the notes on p.4 of G.O.No.886 Revenue, dated 19.4.1948.

2. The Board observes that F.R. 26 (b) has been held by the Accountant General, in more than one case, to operate adversely so as to prevent the counting of periods of service on deputation for increments in a time scale of an officiating post and that it is doubtful whether F.R.26 (b) which appears to be more an enabling provision instead of a prohibitory one, was intended to prevent the counting of service on deputation for increments in officiating posts. It further states that under the principle of the "next below rule", an officer would be entitled to claim an increment which he would otherwise have got had it not been for his deputation. For the above reasons, it suggests that F.R. 26 (b) should be suitably amended so as to count periods of service on deputation for increments in a time scale of an officiating post.

3. Under F.R. 26 (b) periods of service on deputation will count for increments in a time scale applicable to the post on which the Government servant holds a lien, as well as in the time scale applicable to the post or posts, if any, on which he would hold a lien had his lien not been suspended. But according to this rule the Government servant so deputed should be holdings a substantive post.

Under F.R. 26 (c), a Government servant, while officiating in a post, or holding a temporary post on a time scale of pay is appointed to officiate in a higher post, or to hold a higher temporary post, shall, if he is reappointed to the lower post, count for increments in the time scale applicable to such lower post. The period of officiating service in the higher post which counts for increment in the lower is, however, restricted to the period during which the Government servant would have officiated in the lower post but for his appointment to the higher. This clause applies also to a Government servant who is not actually officiating in the lower post at the time of his appointment to the higher post, but who would have so officiated had he not been appointed to the higher post. According to this rule, the post which the Government servant held on deputation should be a higher post.

his officiating or temporary service in the higher post

It is submitted that it must be considered as a hardhsip to the officiating Government servant who has been deputed in the public interest, to officate in another post not higher in status than his old post, if he is not allowed to count his officiating service on deputation for increments in the time scale of the officiating post. As there is at present no provision in the F.Rs to redress the hardship, there is much force in the reasons adduced by the Board noted in para 2 above.

4. Hardships of the kind referred to in para 3 above are, however, redressed by the Government as and when they are brought to their notice. A few cases are mentioned below:

F.R. 26 (b). (1) In G.O.No.1929, Revenue dated 25-10-'45 the Government permitted two officiating Dy.Collectors, who were deputed to the service in the service in the Government of Bengal, in the interest of public service, to count for increment in the scale of Dy. Collectors the periods of their deputation by relaxing F.R 26 (b) in their favour.

(2) Rao Sahib Sri R.Rajagopala mudaliar, Officiating Dy. Collector, who was drawing pay in the scale of Rs. 250-50/2-700 was appointed under the Government of India as Assistant Director of Employment, Directorate of Resettlement and Employment, Madras, from 5-11-45 on his grade pay plus a special pay of Rs.150/- p.m. and was confirmed as Dy.Collector with effect from 16-11-45 during the period of his deputation. In G.O.No.3058 Revenue dated 18-12-47, F.R. 26 (b) was relaxed in his favour and he was permitted to count for increment, in the scale of Rs.250-50/2-700, the period from

5-11-45 to 15-11-45, during which he was on deputation under the Government of India as Assistant Director of Employment, Madras.

(3) Khan Sahib S.Mahabub Mian Sahib Bahadur, Officiating Deputy Collector, reverted from the post of the Personal Assistant to Collector, Civil and Military Station, Bangalore to the regular line as R.D.O. Madanapalle, He was confirmed as Deputy Collector with effect from 3-1-43. The Government relaxed F.R. 26 (b) in G.O.No.886, Revenue dated 19-4-48 in his favour, by permitting him to count for increment in the time scale of pay applicable to Deputy Collectors the period from 17-4-42 to 2-1-43 during which he was on deputation.

F.R.26 (c)

(4) Government servants who were holding temporary or officiating posts on time scales of pay in the Revenue Department., and were transferred to the Cauvery Mettur Project Establishment, from that Department, and who but for such transfer would have continued in the District Revenue Establishment, during the period for which they were employed in connection with the C.M.P., should be allowed to draw the pay that they were drawing at the time of their transfer to the Cauvery Mettur Project Establishment, and to count their service in the temporary posts in that Establishment for increments - vide correction slip No.22 of I list under F.R. 26 (c) on p.33 of the Audit Manual.

(5) The clerks, draftsmen, overseers' and tracers, who were actually drawing pay in a time scale and were transferred to the Cauvery-Mettur Project Establishment from the regular Public Works Department. Offices and who but for such transfer would have continued in the P.W.D. during the period for which they were employed in connection with the Cauvery Mettur Project, should also be allowed to draw the pay they were drawing at the time of their transfer and to count their service on the temporary post in that establishment for increment - vide c.s. No.23 of I list - under F.R. (26) (c) on p.33 of the Audit Manual.

(6) In the circumstances, it seems desirable to recast as follows F.R. (26) (c) so that Government servants deputed in the public interest may count periods of service on deputation post if the post to which they are so deputed is not lower in status than the posts held by them prior to deputation. for increments in the time scale of the officiating

"(c) Notwithstanding anything contained in clause (b) above, if a Government servant, while officiating in a post or holding a temporary post on a time scale of pay, is deputed to hold an officiating or temporary post not lower in status than the post held by him before his deputation, his officiating or temporary service in such post shall, if he is reappointed to the post he held before deputation, count for increments in the time scale applicable to that post."

The Period of officiating service in the officiating or temporary post to which he had been so deputed which counts for increments in the post held by him before deputation should, however, be restricted to the period during which the Government servant would have continued to hold that post but for his deputation.

This clause applies also to an officiating Government servant who is not actually holding the post at the time of his deputation but who would have so held it had he not been deputed".

6. The file may be sent to the Accountant General for remarks.

/True Copy/

Superintendent.
-5-1953.
Madras Record Office.

KP.12.5.